



Paper No. 10

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**COPY MAILED**

**JAN 07 2004**

In re Application No.	09/641,378	:	<b>OFFICE OF PETITIONS</b> DECISION ON PETITION
Reissue of Patent No.	6,053,883	:	
Original Issue Date:	April 25, 2000	:	
Filing Date:	August 18, 2000	:	
Attorney Docket No.	074309.000014	:	

### **CORRECTED DECISION**

This is a decision on the petition under 37 CFR 1.183, filed March 26, 2002, requesting waiver of the rules and requesting the application be accorded a filing date of August 18, 2000. This is also a decision on the petition under 37 CFR 1.47 filed March 26, 2002. This decision also takes into account the paper filed December 18, 2003.

The petition under 1.183 is **granted**.

The petition under 37 CFR 1.47(b) is **dismissed**.

The Office sua sponte withdraws the holding of abandonment.

A *corrected* decision is being mailed because some of the papers filed on March 26, 2002, were not matched with the file until after the prior decision was mailed on August 5, 2002. This decision takes into consideration all the papers which have been filed.

#### The petition under 37 CFR 1.183

The original application was filed without drawings. Petitioner requests entry of a copy of the drawings. This is a reissue application and the content of the drawings is not in question. Therefore, the copy of the drawings filed on March 26, 2002, is accepted and will be used to process the application.

#### The petition under 37 CFR 1.47(b)

Although a formal petition under 37 CFR 1.47 has not been filed, the declaration will be treated as such a petition.

A grantable petition under 37 CFR 1.47(b) requires:

- (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration;
- (2) an acceptable oath or declaration;
- (3) the petition fee;
- (4) a statement of the last known address of the non-signing inventor;
- (5) proof of proprietary interest; and
- (6) proof of irreparable damage.

Applicant lacks items (2), (3), and (5) set forth previously.

As to item (2), the declaration does not list the citizenship of the non-signing inventor. Listing the citizenship in the petition is insufficient to satisfy the requirement that the citizenship be listed as part of the declaration. In addition, the declaration does not list the residential address for the non-signing inventor.

As to (3), the Office is unable to charge the petition fee to the deposit account listed on the petition because Mark Tidwell is not listed in Office records as an authorized user of the account.

As to item (6), Rule 47 applicant failed to provide proof of irreparable damage (see MPEP 409.03(g)). A statement by Rule 47 applicant that the filing is necessary to preserve the rights of the parties would be sufficient.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. Any response should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(b)" and may include an oath or declaration executed by the inventor. **Failure to respond will result in abandonment of the application.**

By mail:        Mail Stop Petition  
                  Commissioner for Patents  
                  P.O. Box 1450  
                  Alexandria, VA 22313-1450

By facsimile: (703) 872-9306  
                  Attn: Office of Petitions


If a request for reconsideration is filed, and a decision on the new petition is not received within three months, petitioner may wish to call the number below to check on the status of the renewed petition.

The holding of abandonment

A Notice of Abandonment was mailed on June 11, 2003. However, the application is not abandoned. Therefore, the holding of abandonment is withdrawn and the Notice of Abandonment mailed on June 11, 2003, is vacated.

The file will be retained in the Office of Petitions to await the filing of a request for reconsideration under 37 CFR 1.47.

Telephone inquiries should be directed to Petitions Attorney Steven Brantley at (703) 306-5683.

  
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Office of Petitions